Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

Consultant, Ana Matosantos

Agenda 1

Saturday, May 22, 2004
9:00 a.m.
Room 4203

5180 Department of Social Services

1. Foster Care Program

Background: The Foster Care program provides support payments for children in out-of-home care as a result of a judicial order or a voluntary placement agreement. The program provides payment to foster care service providers, including foster homes, foster family agencies, residential treatment for seriously emotionally disturbed children and group homes. The program is administered by the Department of Social Services and operated by county welfare departments. It serves an estimated average of 75,800 youth a month.

Governor's Budget: The budget provides $1.8 billion ($462.8 million General Fund) to support the foster care system.

VOTE ONLY ITEMS

Issue A - Title IV-E Waiver

Background: Title IV-E is the principal source of federal funding for child welfare. It funds maintenance payments to foster and adoptive families, placement and administrative costs, including case management, eligibility determination, licensing, and court preparation; and training for staff and foster and adoptive parents. Children who are placed in out-of-home care or who are adopted out of the foster care system are eligible for IV-E funding if they meet certain income eligibility criteria. IV-E income eligibility is based on each state's Aid to Families with Dependent Children eligibility standards that were in place when that cash welfare program was replaced by the Temporary Assistance for Needy Families block grant in 1996. Because the 1996 standards have never been adjusted for inflation, the number of children who meet IV-E eligibility is declining over time.

May Revision: A May Finance letter requests to extend 4 limited term positions and to establish 3.5 limited term positions to develop and implement a Title IV-E Waiver Demonstration Project. The letter also requests continuation of contract funding for a federally required evaluation.

California is developing a Title IV-E waiver application to obtain increased flexibility in the use of this federal funding stream. The state proposes to use IV-E funds to provide services to children and families before abuse or neglect occur. Activities that may be funded through the waiver include: in-home services, such as respite care, or counseling, to families who are at risk of having their children removed; family needs assessments and service plan development; and services to families, without filing a dependency petition with the court. The state plans to use a "capped allocation" fiscal strategy that would be available for up to 20 counties.

The Assembly approved the requested extension of 4 limited term positions and continuation of contract funding to provide state oversight of the IV-E waiver.

Staff recommendation: Conform to the Assembly action.

Issue B - Foster Care Reforms

Governor's Budget: The budget assumes $20 million General Fund in savings resulting from development and implementation of programmatic reforms that shorten the period of time children spend in foster care. The budget stated that reforms could include performance-based contracts; restructuring of foster care rates; and receipt of a federal waiver that permits use of federal foster care funds for child welfare purposes. The Administration intended to submit specific reform proposals to the Legislature as part of the Governor's May Revision.

May Revision: The May Revision proposes a series of foster care reforms for total budget year savings of $41.1 million ($15.2 million General Fund). The proposed reforms include the following short-term and long-term strategies:

a. Non-related legal guardians: The Administration proposes to reduce the rates for non-related legal guardians appointed by the Probate Court. Under current law, non-related legal guardians who are caring for children unknown to Child Welfare Services and not at risk of abuse or neglect receive the full Foster Care basic rate. Relatives caring for abused and neglected dependent children that do not satisfy federal IV-E requirements are only eligible for the lower CalWORKs program grant. The Administration proposes to reduce the rate for non-related legal guardians to the CalWORKs level for **budget year savings of $9.8 million General Fund**.

Staff recommendation: Adopt the May Revision proposal.

b. Eligibility determination: Federal law rules require annual evaluation of foster care eligibility. State regulations require that counties examine foster care eligibility twice per year. The Administration proposes to require only one annual foster care eligibility redetermination for **budget year savings of $4.5 million General Fund.**

The Assembly adopted the proposed trailer bill language and adopted the savings as a reduction to foster care aid payments.

Staff recommendation: Conform to the Assembly action.

c. Financial Audit Reimbursements: California currently reimburses providers who receive less than $300,000 in federal foster funds for the costs of independent financial audit reports up to a cap of $2,500. The Administration proposes to eliminate this supplemental state reimbursement available to small group homes and foster family agencies for **budget year savings of $.2 million General Fund.**

Staff recommendation: Adopt May Revision.

d. Foster Family Agency rates: Foster family agencies are nonprofit organizations that recruit foster parents, certify them for participation in the program, and provide them with training and support services. They were created in the mid-1980s as an alternative to group home care. FFA reimbursement rates vary according to the age of the child and range from $1589 to $1787 per month. Five FFAs receive "grandfathered" rates, which are higher than other FFAs statewide. The Administration proposes to reduce the rates received by the "grandfathered" agencies to the current schedule for **budget year savings of $.7 million General Fund**.

Staff recommendation: Reject May Revision proposal.

e. Audit reforms: The Administration proposes to make a series of changes to the group home audit process to streamline the process and reduce workload for the state. Proposed trailer legislation would allow the department to adjust a group home's rate based on a non-provisional program audit (three-month period), eliminate the informal hearing process for non-provisional audits, and to restrict applications for rate increases of providers who fail provisional audits. **The May Revision does not identify budget year savings associated with these proposals.**

Constituency comments: Representatives of providers oppose the proposed audit reforms. They argue that short-term audits could be punitive to providers who are actually meeting their RCL points over the year, but have a change in staffing during the audit period. They oppose the proposed elimination of the informal appeal process, as formal appeals require more resources from providers and from the state. Lastly, they oppose the proposed restriction for rate increases of providers who fail provisional audits and argue that it would eliminate the flexibility of a new group home program to increase the level of care and services it provides.

Staff recommendation: Reject the May Revision proposal.

f. Relative providers: The Administration proposes trailer bill legislation to reduce the grant amount for foster parents that are relatives, who have not moved toward permanency after 4 years. If these relatives have not taken steps to adopt the children or become their legal guardians their grants will be reduced to the CalWORKs child-only grant level, a difference of over $400 per month. No grant reductions will be made until 2006. Therefore, **the May Revision does not assume any savings associated with this proposal in the budget year.**

Staff recommendation: Reject the May Revision proposal.

DISCUSSION ITEM:

g. Performance Based Contracting and Rate Reforms: A May Finance letter requests 6.5 limited term positions and $850,000 for contractor services to: (1) develop a performance-based contracting system for foster care group homes and foster family agencies, (2) conduct a review of the specialized rate structures which support foster family homes and (3) fund an independent evaluation. The May Revision also proposes trailer bill legislation to authorize DSS to implement a performance based contracting pilot project in participating counties.

Currently, group home providers are reimbursed by the state and counties based on the qualifications of their staff and the intensity of the services they provide. Foster family agencies are reimbursed at varying rates depending on the age of the child and whether they are classified as "treatment" or "non-treatment". Group homes and foster family agencies are required by law to meet the care and supervision needs of each child in placement. However, payment rates are based upon services provided, not on results achieved.

Under the Children and Families Services Review and California's CWS Outcomes and Accountability system, the state and counties are expected to meet or exceed specified child and family outcomes. Future federal fiscal penalties are tied to program performance and to the state's ability to meet specific program improvements. The Administration proposes to develop and implement a performance-based system for the oversight and reimbursement of foster family agencies and group homes that is consistent with the overall programmatic shift to focus on child and family outcomes. **The May Revision does not assume budget year savings associated with this proposal.**

Staff comment: While implementation of performance based contracting for foster care providers may be beneficial to children and to the child welfare system, the May Revision proposal is conceptual and lacks important details. For example, the proposal lacks details including the performance or outcomes that will be measured, how performance would be measured, and information regarding the nexus between the provider's authority and the performance outcomes. The proposed trailer bill legislation authorizes the Department of Social Services to implement a performance based contracting system for foster care providers, but does not specify what such a system would involve. Such a system could involve significant program changes, impact program costs, and affect provider availability and system capacity.

Subcommittee request: The Subcommittee has requested that the Department of Social Services answer the following questions:

1. Please describe the May Revision proposal.
2. What would the proposed performance based contracting for foster care providers involve?
3. What outcomes or performance standards would the state expect providers to achieve?
4. Would performance measurements be consistent with provider authority?
5. What changes to the current system design, if any, would be associated with the proposal?

Staff recommendation: Reject the May Revision proposal.

II. Community Care Licensing

1. Increase Community Care Licensing fees to cover program costs.

Background: California began assessing fees from a wide range of facilities licensed by the Department of Social Services in 1992. The fees were established to cover a modest portion of the costs for the state's licensing program. They are assessed on a per facility basis, with the exception of fees levied on child care centers operating more than one facility.

Since 1992, DSS fees had remained unchanged. The Budget Act of 2003 and its implementing legislation substantially increased the CCLD fees, established a new fee on foster family agencies and eliminated the cap on certain child care center fees. Fees on child care providers generally doubled, while fees on residential care providers increased by at least 25 percent. CCLD fees will now generate $14 million in revenue and will cover 40 percent of the General Fund costs of the Community Care Licensing Division.

Governor's Budget: The budget proposes to increase fees paid by CCLD licensees over a three-year period to fully fund the state community care licensing costs with fee revenue. The Governor's Budget assumes $5.8 million in revenue resulting from the proposed fee increases.

Over the next three years licensing fees will double to reach the necessary level of revenue. The Department of Social Services is currently working with representatives of providers to review its existing fee structure and develop a new fee schedule consistent with the Governor's proposal.

Licensees subject to the fee increases include childcare providers, adult care facilities, children residential programs, and senior care providers. The state and counties are the primary, and in some cases the sole, purchasers of services provided by CCLD licensees. Substantial CCLD fee increases are tantamount to a rate reduction for some providers. Such increases may result in a loss of available providers and additional pressure for adjustment of reimbursement rates.

Currently, the CCLD fee revenues are considered General Fund revenue and as such are deposited into the General Fund along with all other General Fund revenues. The Analyst believes that this practice makes it difficult for the Legislature to determine whether or not the fees are adequate to fund the General Fund portion of the CCLD budget. The LAO recommends that the Legislature establish a special fund to capture licensing fee revenue and assure that the proposed fee increases yield a stable funding source for the Community Care Licensing Division.

The Subcommittee considered the Governor's proposal at its March 11 hearing and requested that DSS work with stakeholders to develop a fee proposal that would meet the General Fund target, while considering the impact of fee increases on the availability of providers and continued access to services for program consumers.

Staff recommendation: (1) Reject proposed trailer bill legislation to increase CCLD fees to replace General Fund support for the CCLD; (2) Require that licensing fees paid by CCLD licensees be deposited into the Technical Assistance Fund; and (3) Assume $5.8 million in increased fee revenues and adopt placeholder trailer bill to realize the specified level of revenues.

III. In-Home Supportive Services - Residual program

May Revision: On May 3, 2004, the Administration submitted an application for a Medicaid 1115 waiver to secure federal financial participation in the IHSS Residual program, in lieu of the elimination proposed by the Governor in November. The May Revision restores program funding and assumes that the waiver will be approved and that California will receive federal funding for IHSS Residual program costs.

A May Finance letter requests that the Legislature establish 9.5 new positions and provide $734,000 ($367,000 General Fund and $367,000 Reimbursements) in increased funding for Department of Social Services staff to develop, implement and manage the IHSS Plus waiver. The May Revision also proposes to establish 5 new positions at the Department of Health Services to oversee the waiver.

The Subcommittee took the following action at its May 20 hearing: (1) Adopted the IHSS residual program restoration and assumed increase in federal funding as proposed in the May Revision; (2) Approved 6 of the 9.5 positions requested for waiver oversight; (3) Adopted placeholder trailer bill legislation to implement the IHSS waiver and facilitate the transition of consumers from the Residual Program to the waiver; and (4) Retained the existing statutory framework for the Residual program.

Department of Finance request: The Department of Finance has informed Subcommittee staff that the May Finance letter included an error regarding the scheduling of resources for staff in the DSS state support item. DOF has requested that the Legislature make a technical correction to the IHSS Plus Waiver support Finance letter to reflect the correct program for the funding.

Staff recommendation: (1) Amend prior Subcommittee action to approve 6 positions for waiver oversight, to be reflected in Schedule 25 - Social Services and Licensing of Item 5180-001-0001.